

No. _____

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON
DIVISION II

In Re the Personal Restraint of
STEVEN L. HESSELGRAVE,
Petitioner.

DECLARATION OF CYNTHIA B. JONES

CYNTHIA B. JONES
JONES LEGAL GROUP, LLC
1425 Broadway # 544
Seattle, WA 98122
Tel: (206) 972-4943

RITA J. GRIFFITH, WSBA
4616 25th Avenue N.E., # 453
Seattle, WA 98115
Tel: (206) 547-1742

ATTORNEYS FOR PETITIONER

CYNTHIA B. JONES on oath deposes and states:

I am one of the attorneys for the Petitioner Steven L. Hesselgrave and make this Declaration to identify documents submitted in support of the Personal Restraint Petition filed this date.

1. Appendix at pages 1 and 2 is a copy of the Mandate in *State v. Hesselgrave*, Division II No. 44177-2-II and Pierce County No. 11-1-02300-3, taken from the copy of the state court record on file and accessible to the public under cause number 11-1-02300-3 at the Pierce County Superior Court.

2. Appendix at pages 3 through 13 is a copy of the PowerPoint slides presented to the jury during the trial of Steven L. Hesselgrave under the cause number 11-1-02300-3 in Pierce County Superior Court submitted to the trial court by the Pierce County Prosecutor and filed as Exhibit 24 therein, taken from the copy of the court record personally by me from the Pierce County Courthouse in exchange for a \$5.00 fee paid to said courthouse.

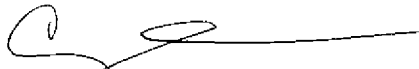
3. Appendix at pages 14 and 15 is a copy of the Order Adding Appellate Costs to Judgement and Sentence in *State v. Hesselgrave*, under cause number 11-1-02300-3 in Pierce County Superior Court, taken from a copy of the state court record on file and accessible to the public under cause number 11-1-02300-3 at the Pierce County Superior Court.

4. Appendix at page 16 is a copy of the Order Denying Defendant's Motion in *State v. Hesselgrave*, under cause number 11-1-02300-3 in Pierce County Superior Court, taken from a copy of the state court record on file and accessible to the public under cause number 11-1-02300-3 at the Pierce County Superior Court.

5. Appendix at pages 17 and 18 is a copy of the Supplemental Order of Indigency in *State v. Hesselgrave*, under cause number 11-1-02300-3 in Pierce County Superior Court, taken from a copy of the state court record on file and accessible to the public under cause number 11-1-02300-3 at the Pierce County Superior Court.

I swear under penalty of perjury under the laws of the State of Washington that the foregoing is true to the best of my knowledge.

DATED at Seattle, Washington this 9th day of June, 2016.



Cynthia B. Jones, WSBA #38120
Attorney for Petitioner

APPENDIX

June 24 2015 3:20 PM

KEVIN STOCK
COUNTY CLERK
NO: 11-1-02300-3

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

DIVISION II

STATE OF WASHINGTON,
Respondent,

v.

STEVEN L. HESSELGRAVE,
Appellant.

No. 44177-2-II

MANDATE

Pierce County Cause No.
11-1-02300-3

Court Action Required

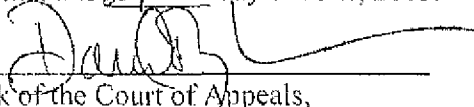
The State of Washington to: The Superior Court of the State of Washington
in and for Pierce County

This is to certify that the opinion of the Court of Appeals of the State of Washington, Division II, filed on October 29, 2014 became the decision terminating review of this court of the above entitled case on June 3, 2015. Accordingly, this cause is mandated to the Superior Court from which the appeal was taken for further proceedings in accordance with the attached true copy of the opinion.

Court Action Required: The sentencing court or criminal presiding judge is to place this matter on the next available motion calendar for action consistent with the opinion.



IN TESTIMONY WHEREOF, I have hereunto set
my hand and affixed the seal of said Court at
Tacoma, this 24th day of June, 2015.


Clerk of the Court of Appeals,
State of Washington, Div. II

MANDATE
44177-2-II
Page Two

Brian Neal Wasankari
Pierce Co Dep Pros Atty
930 Tacoma Ave S Rm 946
Tacoma, WA, 98402-2171
bwasank@co.pierce.wa.us

Kathryn A. Russell Selk
Russell Selk Law Office
PO Box 31017
Seattle, WA, 98103-1017
KARSdroit@aol.com

WSP Identification & Criminal History Section
ATTN: Quality Control Unit
PO Box 42633
Olympia, WA 98504-2633

Hon. Ronald E. Culpepper
Pierce Co Superior Court Judge
930 Tacoma Ave So
Tacoma, Wa 98402



**STATE OF WASHINGTON
vs.
STEVEN L. HESSELGRAVE**

**An Imperfect World
and
A VIOLATION of Trust**

THE WORDS OF A CHILD

- Didn't see the defendant come to wake her up....only HEARD HIS FOOTSTEPS
- When the defendant "peed" in her mouth, it "TASTED LIKE A BAR OF SOAP"

Rape of a Child in the First Degree

1. Between July 11, 2008, and December 31, 2010, the defendant had sexual intercourse with S.L.
2. S.L. was less than 12 years old and not married to the defendant
3. Defendant was at least 24 months older
4. Washington State

Not disputed by any witness...

- S.L.'s date of birth is 7-11-02; (6 years old in 2009, 8 years old in October 2010)
- S.L. lived with the defendant in Spring of 2009 to fall of 2009
- S.L. also stayed the night at his house in October 2010 when her mom was at bachelorette party
- Never been married
- Defendant was at least 24 months older (9/14/1983; 19 years older than S.L.)
- Happened in the State of Washington

What's in Dispute?

- Sexual Intercourse

SEXUAL INTERCOURSE

...the sexual organ of the male entered and penetrated the sexual organ of the female and occurs upon any penetration, however slight, *OR*

- This is: *Penis* in vagina or anus

SEXUAL INTERCOURSE

... any penetration of the vagina or anus however slight, by an object, including a body part, when committed on one person by another, *OR*...

- This is: object or finger/etc. in vagina or anus

SEXUAL INTERCOURSE

... any act of sexual contact between persons involving the sex organs of one person and the MOUTH or anus of another.

- This is: mouth on penis *OR* mouth on vagina (penetration irrelevant)

Sexual Intercourse

- Penetration not an issue here because defendant is just flat out saying he didn't do it

CREDIBILITY

- You are the sole judges
- You weigh the testimony

COMMON SENSE

CREDIBILITY

- Witness' memory
- Witness' manner while testifying
- Interest
- Bias
- Prejudice
- REASONABLENESS
- Any other factors that bear on believability

S.L.

- Ever changing residence, living conditions
- Mom had very limited resources
- Mom unsupportive; had her own life problems to deal with

Timeframes IRRELEVANT

- Living with Defendant because mom homeless
 - March 2009 to Sept. 2009
 - S.L.: 6 years old
- Mom @ bachelorette party, S.L. staying with defendant
 - October 2010
- BOTH are between 7/11/2008 and 12/31/2010, so it doesn't matter

S.L.'s disclosures

- Giselle Soto on the bus (least detailed)
- Christina Murillo, CPS (some details)
- Cornelia Thomas, FI (more detailed)
- In court testimony (most detailed)

S.L.'s Disclosures

- Consider context
 - In passing on the bus -> "safety" interview -> Trained forensic interview -> 2 lawyers asking everything they can think of
- Length of time
 - 1 minute or less -> about 15 minutes -> about 40 minutes -> 1 – 2 hours+
- Location
- Training

Disclosure to Giselle Soto

- My daddy's penis tastes like mint
- Maybe not a "true" disclosure, but got the ball rolling
- Mint vs. chocolate chips = WHO CARES!
 - Important thing is that she said she tasted it

Disclosure to Christina Murillo

- On tape. Preliminary "safety" interview
- Told about Palfrey first
- When asked if anyone told her to keep "secret" she says defendant told her to keep S-E-X secret
- His penis in her vagina
- The importance of asking the right question with children...

FORENSIC INTERVIEW

- Cornelia Thomas:
 - Approx. 40 minutes
 - Uncomfortable setting
 - Unnatural process
 - Uncomfortable questions
 - Went beyond "attention threshold" of 30 minutes
- Provided specific details – Funnel Method

Details of Forensic Interview

- Above all WATCH IT AGAIN!
- S.L. only talks when she's ready to talk
- Lots of details when asked, including spontaneous statements
- S.L. answers the question *that she is asked*

Details continued...

- 10:35:50- talks about wiping herself, putting the toilet paper in the toilet after

Details continued...

- 10:37:30- Penis in mouth. "Peed" "ew!"
- 10:41:20- DEMONSTRATES how the defendant interlaced his fingers behind her head and made it bob up and down
(*NOTE- also demonstrated in court)

Details continued...

- 10:48:00- Defendant told her not to tell
- 10:51:00- Didn't tell counselor, Anna Watson, about what defendant did because counseling was "about Kelvin"

S.L.

- Manner while testifying
- Scared
- Hid from the defendant; didn't want to look over at him to say if his suit had stripes
- How should she behave

S.L.

■ Interest, Bias, Prejudice

- Didn't even intend to "disclose;" just mentioned strange comment to classmates and then answered questions after that
- She has lost her mother; been in foster care since

Jack Hesselgrave

■ Interest, Bias, Prejudice, Reasonableness

- Moved to this state to support his son
- Bias: obvious contempt for Leona
 - ▶ Tess In: Oh, you mean when she was HOMELESS
- In 2+ years of living with the defendant, the defendant was never home w/out him for more than 10-15 minutes?!!?
- REASONABLE? NO!
- It's clear where his bias leans; stand by his son

Jacob Hesselgrave

■ Interest, Bias, Prejudice, Reasonableness

- Would have only been 4 years old or so
- Doesn't even remember S.L. ever staying the night at the apartment, even though every other witness agrees she did for months on end
- Dr. Reintz: kids younger than 6 may forget entirely

THREE POSSIBILITIES

1. Someone coached S.L.
2. S.L. made it up on her own
3. S.L. is telling the truth

(1) Coaching/frame job- IMPOSSIBLE to plan the chain

- The miracle "chain of disclosure"
- Random "penis" comment on the bus to classmate, Giselle....
 - If they decided not to tell their babysitter = CHAIN BROKEN, no disclosure
- Tenessa Starks hears about S.L.'s comment from Priscilla
 - Giselle didn't initiate conversation with Tenessa. If Priscilla wouldn't have heard, CHAIN BROKEN, no disclosure.

**(1) Coaching/frame job-
IMPOSSIBLE to plan the chain**

- Tenessa decides to call school, even though she doesn't know S.L. and has no obligation to report comment!
 - If Tenessa decided to just file it away as a strange comment, or something she misheard, or maybe just decided she didn't want to go through the trouble of reporting = CHAIN BROKEN, no disclosure

**(1) Coaching/frame job-
IMPOSSIBLE to plan the chain**

- Laurel Powell decides to report comment to CPS
 - If she just decided it was a weird comment but not a specific report of abuse = CHAIN BROKEN, no disclosure

**(1) Coaching/frame job-
IMPOSSIBLE to plan the chain**

- Christina Murillo does safety interview. Asks about inappropriate touching and S.L. only mentions Palfrey. Christina thinks to ask a follow up question about "secrets" and finally Defendant's sexual contact is truly disclosed
 - If Ms. Murillo asked about inappropriate contact only, and not "secret" question = CHAIN BROKEN, no disclosure!

**(1) Coaching/frame job-
IMPOSSIBLE to plan the chain**

- All these links were OUT OF S.L. or Leona's control
- Leona didn't even KNOW that S.L. had said anything at all until after Safety Interview
- MORE likely that the chain would have been broken than it would have lead to full disclosure
- Is it reasonable to believe S.L. or her mom "planned" for all the links in the chain to reach the defendant?
- **NO!!!!**

**(1) Coaching/frame job-
IMPOSSIBLE to plan the chain**

- If Leona and S.L. wanted to make a sure fire disclosure that would get defendant caught, there was a much easier way....
- 3/25/11- just about 1 month prior, S.L. could have just disclosed to Anna Watson
- Mandatory reporter who they already knew would contact police

That means...

- Since it is essentially impossible that Leona or S.L. could have "planned" the chain of disclosure.....
- Any "motive" to plan it DOESN'T matter!

(1) Coaching/Suggestibility

- Even if you do still want to think about coaching...
- Forensic interview technique
- Funnel Method
- Alternative hypotheses
- Cornelia Thomas- NO evidence of coaching. 1500+ child interviews worth of experience

(1) Coaching/Suggestibility

- Does S.L. sound memorized?
- Answers questions
- Builds upon details
- Provides specifics
- Spontaneous statements
- Corrects errors
- Stream of consciousness details

(1) Coaching/Suggestibility

- Parents aren't in the forensic interview
- Don't know what questions are going to be asked
- Ask yourself, how sophisticated are these people?

(1) Coaching/Suggestibility

- Sexually explicit details concerning sensations – it hurt, "ew"
- The way she describes wiping herself and the taste of the "pee"
 - These are all from direct experience

NO EVIDENCE TO
SUPPORT ANY CLAIM THAT S.L.
WAS COACHED BY HER
MOTHER WHEN SHE
DISCLOSED

(2) S.L. made it up on her own

- The Impossible to Plan Chain
 - NO WAY should could have planned to "get" the defendant when she was talking to Giselle Soto on the bus
- No "motive" that would make sense to an 8-year-old

(2) S.L. made it up on her own

■ Why do people lie?

- to get THEMSELVES out of trouble, (i.e. I didn't break the lamp) or to make themselves look good
- Allegations of abuse do neither
 - Attention is negative
 - Criminal justice process is uncomfortable at best

(2) S.L. made it up on her own

■ Some details an 8-year-old can only learn through experience; examples:

- Wiping yourself after vaginal rape
- Didn't see the defendant coming... but heard his footsteps
- Describing the "taste" of the "pee" in her mouth
- Defendant telling her during vaginal sex "everything is going to be ok"

(2) S.L. made it up on her own

COMMON SENSE

**No Evidence to Support
S.L. Made it up
on Her Own**

One Conclusion

(3) S.L. is telling the truth

REASONABLE DOUBT

■ Reasonable Doubt

- One for which a reason exists
- May arise from evidence or lack of evidence

Beyond a Reasonable Doubt

- Abiding belief in the truth of the charge . . .

S.L.'s World is Not Perfect

- Leona is not the mother any of us would wish for a child
- Maybe she didn't know...and maybe she did and decided to do nothing because she was worried about losing her kids to CPS
- BUT...her failings are not S.L.'s failings

Bottom line...

- No way Leona or S.L. could have planned the "chain"
- Too many spontaneous details to be made up
- If you believe S.L. that the defendant did ANY form of intercourse he is GUILTY

Juror's Responsibility

- Defendant wants you to be overwhelmed
- Wants you to focus on the trees and ignore the forest
- High burden
 - Same burden used by juries all over this country every day

JUSTICE

"Justice, though due the accused, is due the accuser also."

— Benjamin Cardozo

An Imperfect World and A VIOLATION of Trust

GUILTY

State v. HESSELGRAVE

REBUTTAL

Some things to think
about...

"Casual" Amber Alert

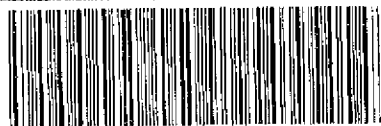
■ Reasonable?

■ **NO!**

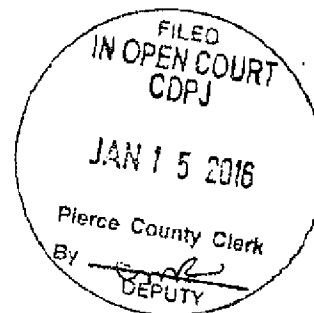
RED HERRINGS

- Since it is essentially impossible that Leona or S.L. could have "planned" the chain of disclosure.....
- Any "motive" to plan it DOESN'T matter!

0020
00335
11/20/2016



11-1-02300-3 48216618 OAC 01-19-16



IN THE SUPERIOR COURT
OF THE STATE OF WASHINGTON
IN AND FOR PIERCE COUNTY

STATE OF WASHINGTON,
Plaintiff

v.

STEVEN L. HESSELGRAVE,
Defendant.

NO. 11-1-02300-3
Court of Appeals No. 44177-2

ORDER ADDING APPELLATE COSTS
TO JUDGMENT AND SENTENCE

THIS MATTER coming on regularly for hearing before the above entitled court on the Motion of Sven Nelson, Deputy Prosecuting Attorney for Pierce County, Washington, for an order adding appellate costs to the Judgment and Sentence; and the court being in all things duly advised, Now, Therefore,


IT IS HEREBY ORDERED, ADJUDGED AND DECREED that appellate costs in the amount of \$12,454.92 shall be added to the legal financial obligations listed in

the Judgment and Sentence to be paid by the defendant. All other terms and conditions of the original Judgment and Sentence shall remain in full force and effect as if set forth in full herein.

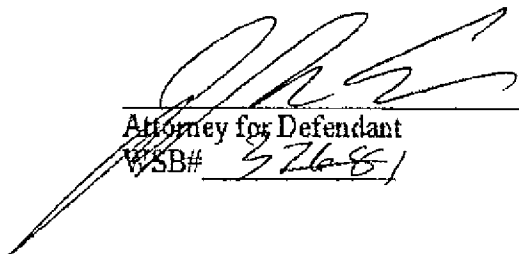
DONE IN OPEN COURT this 15th day of Jan, 2016.


JUDGE
Stanley J. Rumbaugh

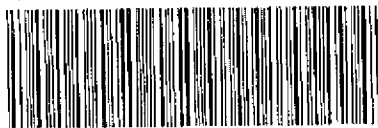
Presented by:


Deputy Prosecuting Attorney
WSB # 47814

Approved as to Form by:


Attorney for Defendant
WSB# 32681





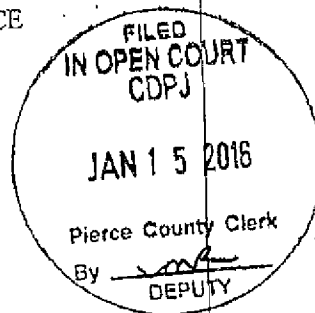
11-1-02300-3 48216819 ORDYMT 01-19-16

IN THE SUPERIOR COURT OF WASHINGTON, COUNTY OF PIERCE

STATE OF WASHINGTON,

Plaintiff/Petitioner,

Cause No. 11-1-02300-3
98-1-02549-4



vs.

ORDER DENYING DEFENDANT'S
MOTION

Troy Williams and Joined Defendant's

Defendant/Respondent.

THIS MATTER comes before the court on defendant's motion for the Court to conduct an analysis of the Defendant's ability to pay appellate costs pursuant to *State v. Blazina*, 182 Wash.2d 827 (2015).

The Court having considered the Washington Supreme Court's Order in *State of Washington v. Roman Mikhailovich Federov*, No. 90939-3, and the Defense having conceded that the referenced order is controlling on the issue, the Court hereby DENIES the Defendant's motion.

DONE IN OPEN COURT this 15th day of January, 2016.

Superior Court Judge

Stanley J. Rumbaugh

Presented by:

Sean H. Waite, WSBA-# 45239
Deputy Prosecuting Attorney

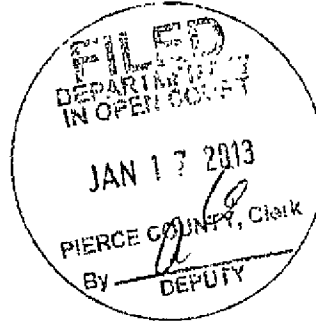
Defense Approval as to Form

Evans 37681

ORDER - 1



11-1-02300-3 39891487 ORIND C1-23-13



Hon. Judge Ronald E. Culpepper

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON

PIERCE COUNTY

THE STATE OF WASHINGTON,

Respondent/Plaintiff,

vs

STEVEN HESSELGRAVE,

Appellant/Defendant

) Case No. 11-1-02300-3
)
) SUPPLEMENTAL ORDER OF INDIGENCY
) (IN FORMA PAUPERIS)
)
)
)
)
)
)

THIS MATTER having come before the undersigned Judge for the above-entitled Court,
 on a motion for a supplemental order of indigency, the Court having considered the motion and
 supporting certification and being otherwise fully advised, and the Court having determined that
 the moving party is indigent and entitled to public funds for the purposes requested, now,
 therefore;

ORDER OF INDIGENCY- 1

1 IT IS ORDERED:

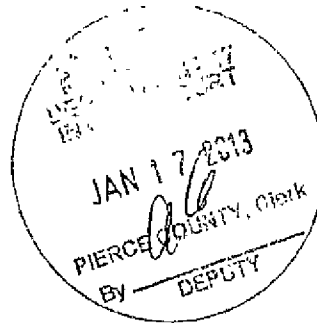
- 2 (1) The verbatim report of proceedings necessary for review shall be prepared at
 3 public expense, and shall include, in addition to those portions previously ordered,
 4 *portions of the opening statements and juror voir dire; needed to examine issues on appeal*
 5 (2) A copy of the verbatim report of proceedings shall be filed with the clerk of the
 6 Pierce County Superior Court, and transmitted by said Clerk to the Court of
 7 Appeals, with a copy also being provided to defense counsel for the use of the
 8 parties,
 9 (3) Any additional costs, such as transmission of the transcript by the clerk's office,
 10 courtroom fees, or other expenses associated with the supplemental order, shall be
 11 at public expense.

12 DATED this 17th day of January, 2013

13
 14 *[Signature]*
 Honorable Judge Ronald E. Culpepper

15 Presented by.

16
 17 *[Signature]*
 18 KATHRYN RUSSELL SELK, No 23879
 Appellate counsel for defendant
 19 RUSSELL SELK LAW OFFICE
 Post Office Box 31017
 20 Seattle, Washington 98103
 (206) 782-3353



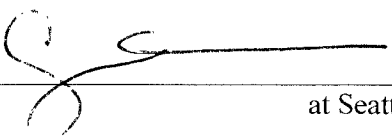
ORDER OF INDIGENCY- 2

CERTIFICATE OF SERVICE

I certify that on the date listed below, I served by e-mail a copy of this pleading on the following:

Counsel for Respondent
Kathleen Proctor
Pierce County Prosecutor's Office
930 Tacoma Avenue S., Rm 946
Tacoma, WA 98402-2171
litigation@prosecutor.piercecountywa.gov

And by U.S. Mail to
Steven Hesselgrave
DOC 361157
Washington State Reformatory
P.O. Box 777
Monroe, WA 98272



at Seattle, WA

DATE 6-16-2016

GRIFFITH LAW OFFICE

June 16, 2016 - 11:35 AM

Transmittal Letter

Document Uploaded: 0-prp-Personal Restraint Petition-20160616~2.pdf

Case Name: In re the Personal Restraint of Steven L. Hesselgrave

Court of Appeals Case Number:

Is this a Personal Restraint Petition? ☒ Yes ☐ No

The document being Filed is:

Designation of Clerk's Papers

Supplemental Designation of Clerk's Papers

Statement of Arrangements

Motion: ____

Answer/Reply to Motion: ____

Brief: ____

Statement of Additional Authorities

Cost Bill

Objection to Cost Bill

Affidavit

Letter

Copy of Verbatim Report of Proceedings - No. of Volumes: ____

Hearing Date(s): ____

☒ Personal Restraint Petition (PRP)

Response to Personal Restraint Petition

Reply to Response to Personal Restraint Petition

Petition for Review (PRV)

Other: ____

Comments:

Affidavit with attached appendix

Sender Name: Rita J Griffith - Email: griff1984@comcast.net

A copy of this document has been emailed to the following addresses:

PCpatcecf@co.pierce.wa.us

cjones@joneslegalgroup.net